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PHILIP MORRIS USA INC.
(f/k/a Philip Morris Incorporated)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Leslie J. Grisham,
Plaintiff,
v.
Philip Morris, Incorporated, et al.,
Defendants.

Case No. CV-02-7930 SVW (RCx)

**DECLARATION OF PATRICK J.
GREGORY IN SUPPORT OF
DEFENDANTS' MEMORANDUM IN
RESPONSE TO PLAINTIFF'S
SUPPLEMENTAL BRIEF ON
COLLATERAL ESTOPPEL/ISSUE
PRECLUSION IN RELATION TO
MOTION TO STAY**

Date: September 14, 2009
Time: 1:30 p.m.
Judge: The Honorable Stephen V. Wilson

Filed Concurrently Herewith:
Memorandum in Response, Appendix A,
Notice of Manual Filing

1 I, Patrick J. Gregory, declare as follows:

2 1. I am an attorney at the law firm of Shook, Hardy & Bacon L.L.P.,
3 attorneys of record for Defendant Philip Morris USA Inc. ("PM USA") in this action.
4 The statements in this declaration are made on the basis of my own personal
5 knowledge and I could, and would, competently testify if called upon to do so. This
6 declaration is submitted in support of Defendants' Memorandum in Response to
7 Plaintiff's Supplemental Brief on Collateral Estoppel/Issue Preclusion in Relation to
8 Motion to Stay.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of relevant
10 excerpts of trial testimony in *Blue Cross and Blue Shield of N.J. Inc. v. Philip Morris,*
11 *Inc.*, E.D.N.Y. Case No. 98 CV 3287, dated March 27, 2001, April 2, 2001, and April
12 10, 2001.

13 3. Attached hereto as Exhibit 2 is a true and correct copy of the verdict form
14 in *Blue Cross and Blue Shield of N.J. Inc. v. Philip Morris, Inc.*, E.D.N.Y. Case No.
15 98 CV 3287, dated June 4, 2001.

16 4. Attached hereto as Exhibit 3 is a true and correct copy of relevant
17 excerpts of trial testimony in *Iron Workers Local Union v. Philip Morris, Inc.*, N.D.
18 Ohio Case No. 1:97 CV 1422, dated March 1, 1999.

19 5. Attached hereto as Exhibit 4 is a true and correct copy of the verdict
20 forms in *Iron Workers Local Union v. Philip Morris, Inc.*, N.D. Ohio Case No. 1:97
21 CV 1422, dated March 18, 1999.

22 6. Attached hereto as Exhibit 5 is a true and correct copy of a slip opinion
23 from *Conley, et al. v. R.J. Reynolds Tobacco Co., et al.*, U.S. District Court, Northern
24 District of California, Case No. C 00-1740 SBA, dated December 2, 2002.

25 7. Attached hereto as Exhibit 6 is a true and correct copy of relevant
26 excerpts of the trial transcript from *Little, et al. v. Brown & Williamson Tobacco*
27

1 Corp., et al., U.S. District Court, District of South Carolina, Case No. 2:98-1879-23,
2 dated January 22, 2001.

3 8. Attached hereto as Exhibit 7 is a true and correct copy of the Petition for
4 Rehearing or Rehearing En Banc of Defendant-Appellant Philip Morris USA Inc. at 8-
5 14, DOJ, D.C. Cir. Case No. 06-5267, dated July 31, 2009.

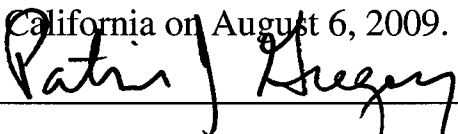
6 9. Attached hereto as Exhibit 8 is a true and correct copy of an article, "The
7 Possible Role of Ammonia Toxicity on the Exposure, Deposition, Retention, and the
8 Bioavailability of Nicotine during Smoking," Seeman & Carchman, 46 *Food & Chem.*
9 *Toxicology* 1863 (2008).

10 10. Attached hereto as Exhibit 9 is a true and correct copy of an article
11 entitled, "A Randomized, Controlled Exposure Study in Adult Smokers of Full Flavor
12 Marlboro Cigarettes Switching to Marlboro Lights and Marlboro Ultra Lights
13 Cigarettes," *Regulatory Toxicology and Pharmacology*, Mendes et al., dated May
14 2008.

15 11. Attached hereto as Exhibit 10 is a true and correct copy of the
16 Declaration of Leslie J. Grisham, dated February 17, 2003.

17 12. Exhibit 11 is a true and correct copy of a DVD containing the materials
18 and exhibits referenced in Appendix A to Defendants' Memorandum in Response to
19 Plaintiff's Supplemental Brief on Collateral Estoppel/Issue Preclusion in Relation to
20 Motion to Stay. Exhibit 11 is being manually filed and served on all parties.

21 I declare under penalty of perjury that the foregoing is true and correct, and that
22 this Declaration was executed in San Francisco, California on August 6, 2009.

23 
24 PATRICK J. GREGORY